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**BZA-1929**  
**JOHN & TRUDI HATTER**  
**Setback Variance**

**STAFF REPORT**  
**March 19, 2015**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioners, who are also the property owners, represented by attorney Daniel Teder, is requesting a rear setback of 23.34' instead of the required 25' for a screened porch. The lot, in Section 5 of Winding Creek Subdivision is currently vacant and is located at 361 Augusta Lane, Tippecanoe 29 (NW) 24-4.

During the review of this case, staff discovered that a lot coverage variance is also needed based on the site plan submitted. After discussion with petitioners' attorney, it was agreed that the lot coverage percentage equals 34.05%, while 30% is the maximum in the R1 zone. There are three possible solutions to this problem: add more land to the lot, make the proposed house smaller, or file for a second variance. Currently, petitioners are out of town and cannot be reached. It is likely this case will be continued until the April meeting so a second variance can be filed, but in case petitioners chose to do one of the other options, this staff report will address the rear setback request only.

**AREA ZONING PATTERNS:**

The lot is zoned R1, Single-family Residential as is all surrounding property. Flood Plain zoning associated with Burnett's Creek, wraps around this section of Winding Creek Subdivision to the south and west. R1B zoning is in place farther to the east; across CR 600 N to the north, zoning is Agricultural.

**AREA LAND USE PATTERNS:**

The unimproved lot in question is located at what is currently the stub end of Augusta Lane. Once the street improvements in this section are completed the lot will be in the middle of the block that ends in a cul-de-sac. No other houses have yet been built in Section 5 of Winding Creek; although there are houses scattered throughout the development to the west and farther to the south. Coyote Crossing Golf Course is adjacent to the south and west of this lot.

**TRAFFIC AND TRANSPORTATION:**

Augusta Lane, once completed, will be a rural local road. A driveway will be constructed leading to a three-car attached garage.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

Existing American Suburban Utilities sanitary sewer and Indiana American Water mains

are located at the end of Augusta Lane and will be extended to serve this section of Winding Creek.

**STAFF COMMENTS:**

The proposed house is 3,411 square feet in size; the total area of the lot is 10,017 square feet. The only portion of the building that extends into the setback is the screened porch by less than two feet. Simply shrinking the size of the screened porch will eliminate the problem of a house that's too big being constructed on a too small lot.

Regarding the ballot items:

1. The Area Plan Commission on March 18, 2015 determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. There is no public safety concern regarding this rear yard request.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. There is a golf course immediately to the rear of the site in question which will not be negatively affected.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. This is an unimproved lot that meets all ordinance standards regarding area and width; there is nothing peculiar about its topography or physical shape.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. A slightly smaller house could be built on site without necessitating a variance request. The size of the proposed house, not the ordinance standards, is the issue.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. It is self-imposed because the variance is needed based solely on petitioners' desired house size.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. There is no ordinance-imposed hardship, so there is no minimum relief from the standards.

**STAFF RECOMMENDATION:**

Denial